



**MINUTES OF THE CITY COUNCIL WORK SESSION held Monday, August 26 2002, for the purpose of considering a revision of policy on non-classified positions with the City of Greenbelt.**

Mayor Davis started the meeting at 8:00 p.m. It was held in the Council Room of the Municipal Building.

PRESENT WERE: Council members Edward V. J. Putens, Rodney M. Roberts, Alan Turnbull, Thomas X. White, and Mayor Judith F. Davis.

STAFF PRESENT WERE: Michael P. McLaughlin, City Manager; Consuella Harris, Human Resource Officer; and Kathleen Gallagher, City Clerk.

ALSO PRESENT WAS: Di Quynn-Reno, Department of Recreation.

Mr. McLaughlin took note of an August 13, 2002, memorandum from Ms. Harris that had been sent to Council as background material, and he said he would give an overview. He said the City's non-classified positions are primarily intended for short-term employment. Although the City limits these appointments to six-month terms, there is no restriction on how soon or how often an employee may be rehired. This system works well for the vast majority of people in such jobs, who are truly seasonal or otherwise temporary workers, but there are another 10-20 who either have been employed by the City continually for a long time or who put in a substantial number of hours. It is the smaller group who need to be looked at to see if they should be categorized in positions that are more permanent and/or carry some benefits.

Because of a successful lawsuit against Microsoft by employees classified as "temporary," many employers have been looking at their policies related to long-term, part-time "temporary" workers. Mr. McLaughlin said Ms. Harris surveyed Howard County, Gaithersburg, Rockville, and the Maryland-National Capital Park and Planning Commission, since, like Greenbelt, they have year-round, full-service Recreation Departments, which generate much of the temporary jobs. She found that these jurisdictions are tending toward providing pro-rated benefits for these employees or establishing a contract with them for a specific term, usually a year, with a maximum of a one-year renewal, with no further rehiring without a break period, usually 90 days. Ms. Harris believes the "90 day" period is arbitrary and could just as well be 30 days.

Mr. Roberts suggested that in the case of "seasonal" employees who are needed year-round and are hard to hire, such as lifeguards, the City should establish one or two permanent, full-time positions in order not to have to rehire continually. In addition, he said a contract employee should be one who is hired to undertake a specific job or project that requires particular expertise, not someone who is working for a while, taking 30 days off, and returning to work; people who are working long term should receive prorated benefits.

Mayor Davis said she did not like the idea of rehiring people on a "temporary" basis after requiring them to take 30 or 90 days off. She said it made the employer appear to be merely taking advantage of a loophole; an employee working long term should be classified.

Mr. White pointed out that the Recreation Department could not simply decide that life guards are hard to retain and fashion classified positions to meet the need, since classified positions are established on a budgetary and staffing-needs basis. He said one function of contract employees is to do work for which there is no full-time, permanent employee to cover. He agreed with the Mayor and Mr. Roberts that the 30- or 90-day hiatus was unnecessary, because if someone is truly a contract employee, a contract can be renewed. Furthermore, a contractor would not be paid benefits because the contractor would negotiate to include the cost of his or her expenses in the contract.

Mr. Putens said the distinction between temporary or permanent should be made by looking at the nature of the work to be done, rather than at the nature of the worker. He said typically an institution would have classified employees, non-classified employees (including seasonal and temporary or term), and contract employees. He agreed with Mr. White that there was no problem with not paying contract employees benefits, saying those individuals would include their benefits in their hourly rate. He said non-classified employees should be truly seasonal or temporary and that there was no problem in not paying them benefits. If non-classified employees are being used in the same way as classified employees, however, then they should be made classified, regardless of whether they're part-time or full-time.

Ms. Harris commented that it is in the last group described by Mr. Putens that the problems have arisen. She said there has developed within the Recreation Department a cadre of long-term, non-classified workers and that, in part, this may have occurred because of an effort to reduce costs. Similarly, Mr. McLaughlin said there is probably an inclination to think of these positions as ones where people are easily replaceable, with the result that the City has no vested interest in keeping employees long term for their skills. Mr. Putens reiterated that it is the work that should be evaluated as permanent vs. temporary, not the people. He said it should be asked of the work: "Does it have a beginning and end, or does it go on all year?" If it goes on all year, then the job should be permanent and classified; it doesn't matter who fills the job or whether the person works full time or part time. In response to a request for clarification from Mr. McLaughlin, he said that if, for example, there are 5 FTEs for center assistant positions in the Youth Center, it does not matter whether those are filled by five full-time or 10 part-time people: all would be classified. In the case of recreation programming staff, however, these individuals are hired to undertake specifically defined jobs for which they have specific expertise, and these individuals would be hired on contract.

Mayor Davis added that in similar discussions in years past, Council had agreed it did not want to create a class of long-term unclassified workers just to save money.

Mr. Roberts also added that a "contract employee" should be one who is able to negotiate a contract, not someone who is simply hired without benefits at an hourly rate determined on a "take it or leave it" basis by the City.

Mr. Turnbull asked if there was any way to deal with the fact that some workers, particularly part-time, may not need any benefits and may prefer to trade benefits for a higher hourly wage instead. Mr. McLaughlin said the City had never been able to grapple with establishing a cafeteria plan as such because of the variation in benefits received across the workforce: e.g., in the case of the Police Department, there is even a different retirement system. Mr. Putens responded that he would be more concerned that employees have access to a type of benefit than whether all employees' benefits were of the same value.

After additional discussion, Council directed that another work session be scheduled on this subject in late November, in order that any decisions may be made in time to fold them into the FY 2004 budget process. Mr. White asked to see more specific data at that meeting on how many employees fall into which categories of employment, both currently and as might be proposed. The Mayor confirmed the need for that data and additional analysis on the 10-20 positions affected and how they compare with positions the City calls part-time classified. She said there appeared to be consensus on not using a system that would result in employees taking artificial breaks of 30-90 days in order to be rehired and on looking at the full array of benefits that could possibly be prorated for part-time staff.

Mr. Turnbull and Mr. White expressed interest in keeping the cafeteria plan approach alive. Mayor Davis said she had some concern that employees who most needed benefits would also be those who would be most likely to opt out of benefits for cash.

Mr. Turnbull said he was in agreement that if employees are doing work that is permanent, they should not be classified as temporary and that those employees who are presently long-term non-classified employees should be receiving benefits. He added, however, that there had been no discussion of the extent to which the City needs to have hiring and firing flexibility in some of these areas and how best to accommodate that.

#### Other Business

Mayor Davis gave Mr. McLaughlin information on a grant program from FEMA that provides assistance to firefighters. She reported that Julia Eichhorst had informed her that an alternative method had been found for dealing with the holly tree. She also said the Assistant to the President of AIMCO has requested to meet and discuss Springhill Lake next week, and September 5 is the proposed date. She also reminded Council that David Moran needs any responses on the MML legislative action requests quickly.

In response to Mr. Turnbull's query on how the City is progressing with reaching goals on the pay plan, Mr. McLaughlin said there would be a memo out to Council in the next two weeks or so.

The meeting ended at 9:40 p.m.

Respectfully submitted,  
Kathleen Gallagher  
City Clerk